

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-094

Judge:

Complainant:

ORDER

June 14, 2024

The Complainant alleged improper legal rulings and denial of due process by a superior court commissioner hearing a civil case.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Barbara Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 14, 2024.

Comp

2024-094

Arizona Commission on Judicial Conduct
1501 W. Washington Street
Phoenix, AZ 85007

Re: Complaint Against Commissioner

To Whom It May Concern:

I am writing to file a formal complaint against Commissioner _____ of the _____ County _____ Court regarding her conduct in my civil case no. _____.

Commissioner _____ granted the defendant's request for a protected address without affording me proper notice or opportunity to respond. I was never served with the defendant's motion as required. When I discovered this, I promptly filed a motion to vacate the order due to lack of service and violation of my due process rights. However, Commissioner _____ denied and ignored my motion without addressing the lack of notice.

In addition, Commissioner _____ failed to hold the defendant accountable for defying a court order. In _____, the Commissioner granted my motion to compel discovery responses but the defendant ignored it. The Commissioner did not enforce her own order or impose any consequences on the defendant.

On _____, Commissioner _____ issued an order stating the hearing would be in-person. However, after the hearing date, a _____ order stated the hearing had been virtual. The conflicting orders created confusion over the format of the hearing and whether it was virtual or in-person. I had filed an emergency motion to continue the _____ hearing one day prior, which was timely. However, the minute entries indicate the matter proceeded on _____ without me present and there is still a lack of clarity on whether it was in-person or virtual.

By granting the protective order without notice, denying my motion to vacate, and failing to enforce sanctions, Commissioner _____ demonstrated unfairness and disregard for my rights as a litigant. Her actions infringe on my ability to litigate this case and pursue legal remedies.

- Protected address orders are usually granted in the context of an existing protective order (e.g. an injunction against harassment, order of protection). The protected address provides confidentiality related to an underlying order. Commissioner _____ granted Defendant a protected address without an underlying order of protection or proper notice to Plaintiff, violating due process.

- Arizona law requires that the party seeking a protective order serve the request on the other party to provide them notice and the ability to respond. Without proper service, granting the order violates due process.
- Under Arizona Rules of Civil Procedure 5(a) and 5(c), every pleading and motion must be served on each party. This includes a motion for a protected address order.
- A judge granting a protected address without an underlying order of protection or without proof of service would likely constitute an abuse of discretion and denial of due process.
- There are limited exceptions where notice may not be required, such as in cases of domestic violence where the party's safety is in jeopardy. But those exceptions would need to be clearly supported by evidence.
- If a judge does grant a protected address order without notice or service, the harmed party can file a motion to vacate the order on grounds of due process violation and lack of proper notice. Plaintiff filed a motion to vacate the order due to lack of service, which the Commissioner ignored / denied.
- The Commissioner failed to enforce sanctions when Defendant ignored a court order.
- The Commissioner has demonstrated unfairness toward Plaintiff as a litigant.
- Plaintiff requests the Court consider the Commissioner's actions in adjudicating this case and ensure Plaintiff receives due process related to any future filings by Defendant.

It should also be noted that the Defendant was already sentenced to _____ months' probation, a _____ fine, _____ domestic violence sessions for the violation of the Plaintiff's Order of Protection. The sentencing judge, Honorable Judge _____ has been informed of this newest incident and has advised the _____ Department for additional sentencing based on this violation.

So, in summary, except in very limited exigent circumstances, an Arizona _____ court judge cannot properly grant a protected address order without an active protective order and without ensuring proper service of the request to the other party. Doing so denies basic due process rights.

Sincerely, \